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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/554,459

11/18/2005

Anton Hale

125686

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7590

09/24/2007

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ALEXANDRIA, VA 22320

EXAMINER

COURSON, TANIA C

ART UNIT

PAPER NUMBER

2859

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                               |                             |  |
|------------------------------|-------------------------------|-----------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/554,459 | Applicant(s)<br>HALE, ANTON |  |
|                              | Examiner<br>Tania C. Courson  | Art Unit<br>2859            |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25OCT05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>22DEC05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I (species shown in Figs. 4a-4c, claims 1-7 and 10) in the reply filed on June 11, 2007 is acknowledged. The traversal is on the ground(s) that this case is a national stage application, thus is not subject to "U.S. restriction/election of species practice. See MPEP 1893.03(d)". The applicant's argument is not found persuasive because the examiner has found the following in the MPEP 1893.03 (d), Unity of Invention "37 CFR 1.499 Unity of invention during the national stage - If the examiner finds that a national stage application lacks unity of invention under 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted.".

The requirement is still deemed proper and is therefore made FINAL.

2. Accordingly, claims 8-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim.

Thus, claims 1-7 and 10 will be further examined in this action.

### ***Drawings***

3. Figures 1a, 1b2a, 2b, 3a and 3b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

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abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s):

- a) claim 1, line 6, "a gear";
- b) claim 1, line 8, "a clutch unit", and;
- c) claim 4, line 2, "at least two individual electromagnets";

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. Reference to a claim in the Specification is considered improper, since the statement might be inconsistent with the claim in the event that claims are renumbered or amended.

Hence, examiner suggests to replace statements in the Specification such as "according to the precharacterizing clause of Claim 1." i.e., lines 6-7 of page 1, with a description of the features

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or particular limitations of the claimed apparatus which applicant intends to point out, where appropriate.

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- a) Claim 4 recites the limitation " at least two individual electromagnets " in line 2, although the specification recites on page 17, line 30, "an electromagnet 5" not "at least two individual electromagnets".

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker (US 2,133,241).

Baker disclose in Figures 1 and 5-6, a distance finder comprising:

With respect to claims 1-7 and 10:

- a) a reference base (27a & 27b), at least one bearing (24a and page 3, lines 63 through 68) for mounting the sighting unit (22) so as to be rotatable relative to the reference base (Fig. 5) about an axis (Fig. 5); a gear (4) for adjusting an angle of rotation between the sighting unit and the reference base about the axis (Fig. 5) and a clutch unit (6a & 6b) by means of which a torque flux about the axis (Fig. 1) can be limited or can be interrupted, the gear and the clutch unit being connected in series in the torque flux between the sighting unit and the reference base (Fig. 5) and the torque flux around the axis (Fig. 5) between the sighting unit and the reference base occurring directly or indirectly substantially via the gear and the clutch unit, unless the torque flux is interrupted by the clutch unit, characterized in that the clutch unit has at least one electromagnet (7a & 7b) for generating a magnetic field and the torque flux around the axis can be limited or can be interrupted by the action or inaction of the magnetic field (Fig. 1);
- b) the electromagnet (7a & 7b) is in the form of a permanent electromagnet comprising at least one permanent magnet and at least one excitation winding, which excitation winding reduces or neutralizes a permanent magnetic field of the permanent magnet, at least in part, when a voltage is applied (Fig. 1);
- c) the electromagnet (7a & 7b) is substantially annular and is arranged around the axis (Fig. 1);
- d) the electromagnet (7a & 7b) is in the form of at least two individual electromagnets which are arranged substantially in a circle (Fig. 1), the

- midpoint of which lies on the axis (Fig. 1) and through the circular area of which the axis passes perpendicularly (Fig. 1);
- e) the clutch unit has at least two parts forming friction surfaces - in particular disc-like parts arranged around the axis-(Fig. 1) for torque transmission by friction which can be caused by pressing against one another (Fig. 1);
  - f) the clutch unit comprises a ferromagnetic brake disc (6c) which surrounds the axis (Fig. 1) and on which the magnetic field can act, having a brake disc surface (Fig. 1), and a in particular disc-like, flat-spring element (6) which is connected firstly to the gear and secondly to the brake disc (Fig. 1), and the parts forming friction surfaces are at least in the form of the electromagnet having an electromagnet surface, the brake disc in particular as a result of the action of the magnetic field being movable against the action of a spring force of the spring element (Fig. 1), in the direction of the electromagnet until the brake disc surface presses against the electromagnet surface (Fig. 1); the gear comprises a worm (4a) and a worm wheel (4c), the midpoint of which lies on the axis-(Fig. 1), and the brake disc of the clutch unit is directly connected to the worm wheel of the gear via the spring element of the clutch unit (Fig. 1);
  - g) the gear for adjusting the angle of rotation has an unlimited adjustment range (page 4, lines 64 through 69).

With respect to the preamble of the claim 1: the preamble of the claim has not been given any patentable weight because it has been held that a preamble is denied the effect of a limitation

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where the claim is drawn to a structure and the portion of the claim following the preamble is a self – contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 ( CCPA 1951).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose devices for making adjustments:

Taghezout (US 5,216,310)

Muller (US 4,181,867)

Sundstrom (US 3,508,335)

Argentieri (US 3,200,498)

Wittkuhns et al. (US 2,093,503)

Gillmor et al. (US 1,984,874)

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239. The examiner can normally be reached on Monday, Wednesday and Thursday from 9AM to 5PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.



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The fax number for this Organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Diego Gutierrez**  
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TCC  
September 17, 2007